United Nations S/AC.50/2012/4

Security Council

Distr.: General
11 June 2012
English
Original: French

Security Council Committee established pursuant to resolution 1737 (2006)

Note verbale dated 21 May 2012 from the Permanent Mission of Luxembourg to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Luxembourg to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1737 (2006) on the Islamic Republic of Iran, and, in accordance with paragraph 31 of resolution 1929 (2010), has the honour to transmit herewith information on the implementation by Luxembourg of the United Nations sanctions imposed on the Islamic Republic of Iran (see annex).

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Annex to the note verbale dated 21 May 2012 from the Permanent Mission of Luxembourg to the United Nations addressed to the Chair of the Committee

Report submitted by Luxembourg to the Security Council Committee established pursuant to resolution 1737 (2006)

In accordance with paragraph 31 of Security Council resolution 1929 (2010), and as a supplement to the information submitted pursuant to paragraph 19 of Security Council resolution 1737 (2006) by note verbale dated 16 April 2007 (S/AC.50/2007/64), Luxembourg has the honour to submit to the Security Council Committee established pursuant to resolution 1737 (2006) on the Islamic Republic of Iran the following information on the specific measures that it has taken to implement effectively the restrictive measures called for in paragraphs 7 to 19 and 21 to 24 of Security Council resolution 1929 (2010).

I. Measures taken by the European Union

Under European Union law, Security Council resolutions are implemented through decisions taken by the Council of the European Union within the framework of the Common Foreign and Security Policy (CFSP).

These decisions are legally binding on member States and integrate the content of Security Council resolutions into European Union law. In order for such decisions to be not only legally binding on member States, but also directly applicable within them, their contents must be incorporated into European Council regulations. In application of these principles, Luxembourg and the other member States of the European Union have jointly implemented the restrictive measures against the Islamic Republic of Iran imposed by Security Council resolutions 1929 (2010) as follows:

Decision 2010/413/CFSP of 26 July 2010

This decision of the Council of the European Union, as amended by Council decisions 2010/644/CFSP of 25 October 2010, 2011/299/CFSP of 23 May 2011, 2011/783/CFSP of 1 December 2011, 2012/35/CFSP of 23 January 2012, 2012/152/CFSP of 15 March 2012 and 2012/169/CFSP of 23 March 2012, sets out the European Union's commitment to implementing all of the measures contained in Security Council resolution 1929 (2010) while expanding their scope in several areas. It includes:

- An export ban on certain items determined by the Security Council and the Sanctions Committee which could contribute to Iran's nuclear programme or other programmes related to weapons of mass destruction;
- Designation, under the visa ban and the asset freeze, of persons and entities involved in proliferation-sensitive nuclear activities or in violations of Security Council resolutions; of individuals and entities of the Islamic Revolutionary Guard Corps; and of the Islamic Republic of Iran Shipping Lines and its subsidiaries;
- Enhanced vigilance over the activities of financial institutions within the jurisdiction of European Union member States with banks and financial

entities linked to Iran, including through a prior authorization regime for all transactions above a certain amount;

- Prohibition of the opening of new branches and subsidiaries of Iranian banks in the European Union and of the establishment of new banking relationships with Iranian banks;
- Prohibition of the provision of insurance and reinsurance to Iranian entities;
- Prohibition of the sale, purchase and brokering of Government bonds;
- Measures in the transport sector prohibiting the access of Iranian cargo flights to European Union airports and prohibiting the provision of engineering and maintenance services to Iranian cargo flights.

Regulations of the Council of the European Union

Regulations of the Council of the European Union implement the elements of the above decisions that fall within the competence of the European Union under the Treaty on the Functioning of the European Union, in particular with a view to ensuring their uniform application by economic operators in all member States.

These Regulations are binding in their entirety and are directly applicable in all member States of the European Union as soon as they have been published in the *Official Journal of the European Union*. Funds and economic resources are frozen directly and immediately under the Council Regulations. No further national implementation is necessary in this respect.

Regulation No. 267/2012 of the Council of the European Union of 23 March 2012 implements the restrictive measures adopted against Iran.

The Council of the European Union has also adopted Implementing Regulation (EU) No. 350/2012 of 23 April 2012 which implements article 46, paragraph 2, of Regulation (EU) No. 267/2012 concerning restrictive measures against Iran. Under Implementing Regulation (EU) No. 350/2012, the person and entities listed in the Annex thereto are deleted from the list set out in Annex IX to Regulation (EU) No. 267/2012.

Council Regulation (EC) No. 539/2001 of 15 March 2001 (and subsequent amendments thereto) stipulates that Iranian nationals are required to be in possession of a visa when crossing the external borders of the member States of the European Union.

II. Measures adopted by Luxembourg

The Grand Ducal Regulation of 10 January 2012 requiring licences for the import, export and transit of certain goods to Iran incorporates into Luxembourg's domestic law some of the obligations arising from Council Regulation (EU) No. 267/2012, which implements the provisions of Security Council resolution 1929 (2010).

Article 47, paragraph 1, of Regulation (EU) No. 267/2012 stipulates that member States shall lay down the rules on penalties applicable to infringements of the Regulation. The penalties imposed by Luxembourg are set out in the following provisions:

The Grand Ducal Regulation of 10 January 2012 requiring licences for the import, export and transit of certain goods to Iran refers to the provisions of the Act of 5 August 1963 regulating the import, export and transit of goods and related technology. Article 9, paragraph 1, of that Act, as amended by the Act of 4 March 1998, refers to articles 231, 249 to 253 and 263 to 284 of the General Act on Customs and Excise of 18 July 1977, which criminalize violation of or attempted violation of the provisions of the above-mentioned Act of 5 August 1963.

Iranian nationals travelling to Luxembourg require a visa in order to enter the territory of the European Union. The travel restrictions are implemented through the visa application process. Denials of visa applications are governed primarily by the Convention implementing the Schengen Agreement, signed on 19 June 1990; it regulates the entry of third-country nationals into the Schengen area, of which Luxembourg is a part. Article 5, paragraph 1, of the Convention sets the conditions for entry into the territories of the Contracting Parties. Paragraph 2 of that article states that an alien who does not fulfil all of those conditions must be refused entry into the territories of the Contracting Parties. Since the individuals listed in the measures ordered by the Security Council do not meet the conditions set out in article 5, paragraph 1 (e), of the Convention, which states that the alien must not be considered to be a threat to public policy, national security or the international relations of any of the Contracting Parties, these individuals may not be granted entry into the territory of Luxembourg. Pursuant to articles 15 and 18 of the Convention, this denial of entry into the territory applies both to uniform short-stay visas valid for the entire territory of the Contracting Parties and to national long-stay visas. Furthermore, the Act of 29 August 2008 on the free movement of persons and immigration provides that individuals who are not allowed into Luxembourg shall be sent back.